



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
Region 1 Boston, Massachusetts
10 Causeway Street, 6th Floor
Boston, MA 02222-1072
(617) 565-6700

October 3, 2005

Mr. Ed Flannery
190 Lincoln St.
Hudson, MA 01749

Re: *Bentley College*
Case 1-RD-2067

Dear Mr. Flannery:

The above-captioned case, petitioning for an investigation and determination of representative under Section 9(c) of the National Labor Relations Act, has been investigated and considered.

Decision to Dismiss: Your petition in this case was filed on August 9, 2005. The investigation disclosed that on that same day, the Employer and the Union executed a collective bargaining agreement covering the bargaining unit involved. The investigation disclosed that the agreement was effective that very day and that some provisions were retroactive. In addition, no evidence was discovered during the investigation to demonstrate that the Employer had actual notice of the filing of the petition prior to the execution of the contract.

The Board has held that where, as here, a collective bargaining agreement is executed on the same day that a petition is filed, the contract operates as a bar to the processing of the petition if the contract is effective immediately or retroactively and if the Employer did not have actual notice of the petition at the time the contract was executed.¹ Accordingly, your petition must be dismissed.

Right to Obtain Review: Section 102.71(b) of the National Labor Relations Board Rules and Regulations permit you to obtain a review of this action by filing a request for review with the National Labor Relations Board. If you wish to file request for review, your attention is directed to the following, which summarizes the provisions of Section 102.71(c) of the Rules:

Request Due Date: The request for review must be received by the Executive Secretary of the Board in Washington, D.C. by the close of business at 5 p.m. on October 17, 2005. However, if you mail the request, it will be considered timely if it is postmarked no later than one day before the due date. The request MAY NOT be filed by facsimile transmission.

Extension of Time to File Request: If you provide a good reason, the National Labor Relations Board may grant you an extension of time to file the request for review. You may file a request for an

¹ *Deluxe Metal Furniture Co.*, 121 NLRB 995, 999 (1958).

extension of time by mail, or by facsimile transmission. The fax number is (202) 273-4270. Any request for an extension of time must be received by the due date indicated above. A copy of any request for extension of time should be sent to me.

Request Contents: The request for review (eight copies) must contain a complete statement setting forth the facts and the reasons why you believe the decision to dismiss the petition is incorrect.

Address for Request for Review: The request should be sent to the Executive Secretary of the National Labor Relations Board, 1099 14th Street, N.W., Washington, D.C. 20570 by the due date specified above. You should send a copy of the request to me, and one copy of the request to each of the parties whose names and addresses are listed below.

Very truly yours,

/s/ Rosemary Pye

Rosemary Pye
Regional Director

cc:

Mr. William T. Sherry, Esq.
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Mr. Mike Gormley
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Bentley College
175 Forest Street
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